

Application No.: 09/988,455

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Gritzbaeh et al.**REMARKS/ARGUMENTS*****Claim Status***

After entry of the present Amendment, Claims 1 – 13 and 15 – 18 are pending in this application. By this Amendment, Claims 1 and 12 are amended, and Claim 14 is cancelled.

***Claim Rejections – 35 U.S.C. § 103***

The Examiner rejects Claims 1 – 18 under 35 U.S.C. § 103(a) as being unpatentable over Pfeifer (U.S. Pat. No. 5,987,519) in view of Zaitzu (U.S. Patent Publication No. 2002/0013551). The Examiner asserts that Pfeifer fails to expressly teach actively controlling the selected diagnosis instrument. However, the Examiner asserts that this feature is well known in the art, as evidenced by Zaitzu. The Examiner concludes that it would have been obvious to include the actively-controlling limitation as disclosed by Zaitzu with the motivation of the operator make decisions and correcting errors. Applicants respectfully traverse.

**Discussion of Claims 1 – 11**

Without conceding that the Examiner's assertions are proper, but to expedite examination and allowance of this application, Claim 1 is amended to further distinguish the claimed subject matter over the cited references to Pfeifer and Zaitzu, and to emphasize that the claimed subject matter is based on a concept that is substantially different from those disclosed in Pfeifer and Zaitzu. Broadly speaking, the concept upon which the claimed subject matter is based allows a central operator (e.g., a medical doctor) to monitor and control two or more diagnosis instruments located at remote patient sites during examination of patients, to be virtually present at a patient's examination, and to actively intervene, if necessary. Pfeifer and Zaitzu, alone or in combination, fail to disclose or suggest this concept.

Claim 1 is amended to further specify that:

- the computerized medical diagnosis management system allows a central operator to monitor and control two or more diagnosis instruments,
- the diagnosis instruments are located at remote patient sites,
- a local monitor allows a local operator to monitor the diagnosis instrument at a patient site during a patient's examination,

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- a control instruction for actively controlling the selected diagnosis instrument is entered by the central operator through the input unit to enable active intervention by the central operator during a patient's examination, and
- the display unit allows the central operator to monitor and control the two or more diagnosis instruments during patient examinations.

According to one embodiment (see paragraphs 44, 45) of the present concept, a local technician is present at each of the medical diagnosis instruments, where a doctor is carrying out an examination on a patient. The data from the diagnosis instruments is transmitted in real time to the central computer system 31. A doctor present at the central computer system 31 supervises the examinations taking place at remote locations on the medical diagnosis instruments. Should the doctor decide that it is necessary to intervene in one of the examinations, then the doctor uses the input unit E to select the corresponding medical diagnosis instrument for intervention. The selection also ensures that the doctor can intervene in the operating procedure or examination process at the selected medical diagnosis instrument by remote control via the corresponding data interface. An input entered by the doctor using the input unit E is converted by the data processing system DV into a control code for the selected medical diagnosis instrument. The control code is then forwarded in real time to the selected medical diagnosis instrument. Advantageously, the central operator/doctor may not only work by means of online diagnosis, but may also intervene actively in the events on site by remote control via the corresponding data interface.

#### Discussion of Pfeifer

The Examiner recognized that Pfeifer fails to expressly teach actively controlling the selected diagnosis instrument since Pfeifer is more directed to a medical device interface of video and voice. In this regard, Applicants discussed in response to the January 26, 2006 Office Action that Pfeifer does not allow active intervention by remote control, and, instead, deals with presenting data obtained at a remote patient monitoring station 18 at a central monitoring station 11. As shown in Fig. 2, the presentation may be by means of videoconferencing equipment 23

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(camera, microphone, speaker and a display 23). The previously submitted arguments regarding Pfeifer are repeated herewith.

Further, Pfeifer fails to disclose that each diagnosis instrument is configured for displaying measurement data and/or diagnosis data on a local monitor allowing a local operator to monitor the diagnosis instrument at a patient site. Pfeifer's telemedicine system includes monitors; however, they belong to the videoconferencing equipment.

Therefore, Pfeifer fails to disclose or suggest at least the above-mentioned limitations of amended Claim 1. Pfeifer's failure to disclose these limitations is indicative of the fact that Pfeifer and amended Claim 1 are based on different concepts, and supports the Examiner's finding that Pfeifer is more directed to a medical device interface of video and voice.

#### Discussion of Zaitzu

Likewise, Zaitzu's pump monitoring system is based on a different concept in that it is more directed to monitoring several pumps for one patient, creating and editing an infusion line, and displaying information created and edited. (Para. 17) Zaitzu does not describe that a local operator of the pumps is present at the patient site during infusion. In fact, it appears that once the patient is hooked up to the pumps, control of the pumps occurs exclusively via the control unit 100 without a local operator. As such, an intervention by a central operator in the sense of the present application and defined in amended Claim 1 is not disclosed.

Further, Zaitzu fails to disclose or suggest that each diagnosis instrument is configured for displaying measurement data and/or diagnosis data on a local monitor allowing a local operator to monitor the diagnosis instrument at a patient site, as defined in amended Claim 1. Zaitzu's system includes a display 101 as part of a central portion (see para. 55), but the pumps do not include local monitors allowing a local operator to monitor the diagnosis instrument at a patient site during a patient's examination, as defined in amended Claim 1.

In view of the foregoing, Applicants respectfully submit that even if one of ordinary skill in the art were to combine Pfeifer and Zaitzu such a combination would not lead to the subject matter of Claim 1. Pfeifer is directed to a medical device

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interface of video and voice to allow video and voice communication over a communication network between a patient monitoring station and a central monitoring station. Zaitzu is directed to monitoring several pumps for one patient, creating and editing an infusion line, and displaying information created and edited. However, for example, none of the references discloses or suggests that each diagnosis instrument is configured for displaying measurement data and/or diagnosis data on a local monitor allowing a local operator to monitor the diagnosis instrument at a patient site during a patient's examination. The prior art's failure to teach these limitations indicates that the prior art does not consider active intervention by a central operator in the sense of the present application.

Applicants respectfully submit that the Examiner's stated basis for rejecting Claim 1 is a clear example of unacceptable 20-20 hindsight that uses Applicant's claimed invention as a template for improperly modifying the prior art in a manner not taught or suggested by the prior art. For example, even the asserted motivation of the operator making decisions and correcting errors would not suggest the claimed subject matter because Pfeifer or Zaitzu do not disclose that each diagnosis instrument is configured for displaying measurement data and/or diagnosis data on a local monitor allowing a local operator to monitor the diagnosis instrument at a patient site during a patient's examination, as discussed above.

In view of the foregoing, Applicants submit that Pfeifer and Zaitzu do not disclose or suggest each and every limitation recited in Claim 1, as amended, and, consequently, does not render the subject matter of amended Claim 1 obvious. Applicants respectfully encourage the Examiner to reconsider Pfeifer and Zaitzu in view of the above arguments and amended Claim 1, and to pass amended Claim 1 to allowance.

Claims 2 - 11 depend from Claim 1. Each dependent claim adds additional inventive features to the medical diagnosis system of amended Claim 1. The above arguments regarding Claim 1 are repeated herewith for each one of the dependent claim. Accordingly, each dependent claim is separately patentable over the cited references. Applicants respectfully request the Examiner to pass Claims 2 - 18 to allowance.

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Discussion of Claims 12, 13 and 15 – 18

Independent Claim 12, as amended, defines a method for managing medical instruments that corresponds to the system of Claim 1. The above discussion regarding Claim 1 is repeated herewith. Therefore, Pfeifer and Zaitso do not disclose or suggest each and every limitation recited in Claim 12, as amended, and, consequently, does not render the subject matter of amended Claim 12 obvious. Applicants respectfully request the Examiner to reconsider the rejections and to pass amended Claim 12 to allowance.

Claims 13 and 15 – 18 depend from Claim 12. As stated above, Claim 14 has been cancelled. Each dependent claim adds additional inventive features to the system of amended Claim 12. The above arguments regarding Claim 12 are repeated herewith for each dependent claim. Accordingly, each dependent claim is separately patentable over the cited references. Applicants respectfully request the Examiner to pass Claims 13 and 15 – 18 to allowance.

The Examiner rejects Claim 17 under 35 U.S.C. § 103(a) as being unpatentable over Pfeifer and Zaitso and further in view of Surwit (U.S. Pat. No. 6,024,699). Claim 17 depends from independent Claim 12. The above arguments are repeated herein. Surwit does not provide the missing teachings in Pfeifer to anticipate nor render obvious Claim 12. Accordingly, at least for the above reasons and because of the additional inventive features recited in Claim 17, Claim 17 is also allowable and reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

The present response is intended to correspond with the Revised Amendment Format. Should any part of the present response not be in full compliance with the requirements of the Revised Amendment Format, the Examiner is asked to contact the undersigned for immediate correction.

For the above reasons, Applicants respectfully submit that the application is in condition for allowance, and such allowance is herewith respectfully requested.

Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issues promptly.


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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 502464 referencing attorney docket number 2000P20541US.

Respectfully submitted,

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